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August 29, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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Re: Erratum to Petition for Reconsideration of the First Report and Order in
CC Docket No. 94-54

Dear Mr. Caton:

The Personal Communications Industry Association ("PCIA"), through its attorneys, hereby submits the attached corrected pages to its Petition for Reconsideration filed in the above-captioned matter on August 23, 1996.

The version of the Petition for Reconsideration that was filed contained two typographical errors -- one in the summary and the other on page 2 of the text. In particular, in the summary and on page 2 of the pleading, the second bullet mistakenly stated that the Commission "should clarify that the resale rule does extend to non-Title II customer premises equipment ("CPE") included in bundled service and equipment packages." The second bullet should have stated that the Commission "should clarify that the resale does not extend non-Title II customer premises equipment ("CPE") included in bundled service and equipment packages." This correction has been made on the corrected pages enclosed herewith.

PCIA is submitting an original and 11 copies of the corrected pages. Please replace the erroneous pages in the filed pleading and copies with the corrected pages. In addition, please associate this letter with PCIA's pleadings in the docket file.

If you have any questions, please feel free to call me at the number listed above.

Very truly yours,

Karen Kincaid
Karen Kincaid
Counsel for PCIA

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segment where a federal resale requirement has been imposed, and will increase significantly over the next few years without a mandatory resale rule. Broadband PCS is expected to be available on a widespread basis later this year, and will produce at least three, and possibly as many as six, new competitors to cellular in each market. In addition, wide-area SMR operators are expected to offer services competitive with cellular and broadband PCS, as will some paging and narrowband PCS operators.

The record demonstrates that these emerging services are already having a significant impact on carrier pricing and practices. As such, the marketplace is accomplishing on its own everything that Commission could hope to bring about by adopting a mandatory resale requirement. Consequently, there is little conceivable benefit to be gained from the imposition of a mandatory resale rule. As the Commission is well aware, however, the costs of such an obligation are substantial and will undoubtedly put upward pressure on subscriber rates.

At a minimum, if the Commission retains the CMRS resale requirement, PCIA asks that it revise or clarify the action taken in the *First Report and Order* in the following respects:

- The Commission should modify the text of the CMRS resale rule to make clear that only *unreasonable* resale limitations are prohibited;
- The Commission should clarify that the resale rule does not extend to non-Title II customer premises equipment ("CPE") included in bundled service and equipment packages;
- To protect CMRS licensees' incentives to develop and offer innovative services, the Commission should make plain that the CMRS resale rule does not require carriers to provide access to proprietary technologies and products; and

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operators should be subject to a mandatory federal resale obligation. Accordingly, PCIA requests the Commission to reconsider its decision and to remove the affirmative resale requirement as applied to all CMRS operators.

In the alternative, should the Commission decide to retain the CMRS resale rule, PCIA urges the agency to revise or clarify the action taken in the *First Report and Order* in the following respects:

- The Commission should modify the text of the CMRS resale rule to make clear that only *unreasonable* resale limitations are prohibited;
- The Commission should clarify that the resale rule does not extend to non-Title II customer premises equipment ("CPE") included in bundled service and equipment packages;
- To protect CMRS licensees' incentives to develop and offer innovative services, the Commission should make plain that the CMRS resale rule does not require carriers to provide access to proprietary technologies and products; and
- The Commission should revise the definition of "covered SMR providers" to premise the determination of whether a particular SMR system is "covered" on a simple mobile count.

PCIA submits that the adoption of rule changes and clarifications consistent with these recommendations will promote the public interest by eliminating unnecessary and unduly burdensome regulatory requirements. The removal of such unwarranted regulatory intrusions will, in turn, promote Congress's goal that a "pro-competitive, deregulatory national policy framework"² be established for the telecommunications

² S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 1 (1996).